

STATE BOARD OF EDUCATION

STATE OF GEORGIA

PATRONS OF  
CAVE SPRING SCHOOL

Appellant,

v.

FLOYD COUNTY BOARD OF EDUCATION

Appellee.

CASE NO. 1983-17

O R D E R

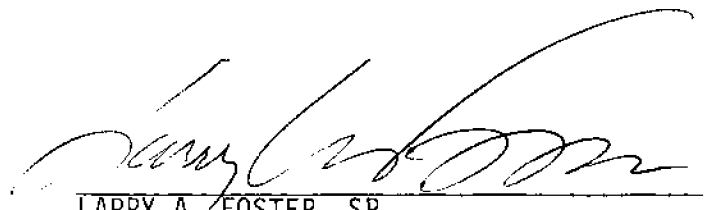
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Floyd County Board of Education herein appealed from is hereby sustained.

All members were present.

This 11th day of August, 1983.



LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C. JACK BREWER, PAUL LOVETT,	)	
WAYNE LANGSTON, CHARLES	)	
JACKSON, JR., ET AL. AND	)	
PATRONS OF THE CAVE SPRINGS	)	
SCHOOL,	)	CASE NO. 1983-17
	)	
Appellants,	)	
	)	
v.	)	
	)	
FLOYD COUNTY BOARD	)	
OF EDUCATION,	)	
	)	REPORT OF
Appellee.	)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by residents of Cave Springs (hereinafter "Appellants") from a decision by the Floyd County Board of Education (hereinafter "Local Board") not to file a request with the State Board of Education for an exception from the average daily attendance requirements. The effect of the Local Board's decision was to accept the recommendation of a State Comprehensive Facilities Survey Team which would result in changing the Cave Springs School from a K-12 school to a K-5 school. Appellant's claim that the Local Board illegally delegated its authority and permitted the Facilities Survey Team to make a decision that should have been made by the Local Board. The Hearing Officer recommends that the decision of the Local Board be sustained.

## PART II

### FINDINGS OF FACT

In accordance with state requirements, the Local Board developed a five-year plan for local school facility improvements in order to acquire capital outlay funds. Several plans were prepared and the Local Board decided to present the plan designated Alternative #2. This plan, among other things, provided that the Cave Springs School would continue to be operated as a K-12 school with a projected average daily attendance of 506 students. In order to avoid any delays in the event Alternative #2 was not accepted, the Local Board also approved the plan designated as Alternative #4 and directed that it be presented if Alternative #2 was rejected. The Alternative #4 plan was the same as the Alternative #2 plan except that it provided for the Cave Springs School to be changed to a K-5 elementary school and showed the distribution of the remaining students to the other schools in the county.

A Comprehensive Facilities Survey Team reviewed the Local Board's plans. Alternative #2 was rejected by the Team because the Cave Springs School did not have a high enough projected average daily attendance. On April 28, 1983, the Comprehensive Facilities Survey Team recommended adoption of Alternative #4. The Local Board met on May 4 and 10, 1983, to consider the recommendation. Appellants requested the Local Board to ask the State Board of Education to make an exception to the minimum size requirements for high schools based upon the uniqueness of the Cave Springs School. The Local Board heard arguments

for and against making the request for an exception. A motion to request the exception was defeated and the Local Board then approved the recommendation of the Comprehensive Facilities Survey Team to adopt Alternative #4 and thus change the Cave Springs School to a K-5 school.

### PART III

#### CONCLUSIONS OF LAW

Appellants seek to have the decision of the Local Board reversed on the grounds (1) the Local Superintendent violated state regulations because he presented two plans to the Comprehensive Facilities Survey Team, and (2) the Cave Springs School has a unique relationship with the Cave Springs School for the Deaf.

In support of their first contention, Appellants argue that the state regulations require a local board to adopt a facilities plan which must be presented to a survey team. They argue that this was not done because the Local Board permitted two plans to be presented to the Survey Team, and the Survey Team then selected the plan for the Local Board. By permitting the Survey Team to make a selection between two plans, Appellants argue, the Local Board improperly avoided adopting a plan and permitted the Survey Team to adopt a plan.

Local boards of education are charged with the responsibility of managing the schools within their jurisdiction. In this management, they are granted broad discretionary authority which will not be interfered with unless the action is a clear

abuse of discretion or illegal. See, Boney v. County Bd. of Ed. of Telfair, 203 Ga. 152 (1947); Braceley v. Burke County Bd. of Ed., Case No. 1978-7. In the instant case, the Local Board took into consideration the uniqueness of the Cave Springs School, the lack of courses available at the Cave Springs School, and the time available for submitting a comprehensive plan. The Local Board examined both alternatives and selected Alternative #2 as the plan they wanted the Survey Team to consider. In the interest of prudence and efficiency, they also approved Alternative #4 if Alternative #2 was rejected by the Survey Team. These facts evidence good management rather than an abuse of discretion. The requirement to present "a plan" certainly does not restrict a local board to the preparation of a single plan etched in stone to which it is unalterably shackled, regardless of its defects.

The Local Board had an opportunity to review the Survey Team's report and was aware of the reasons why Alternative #2 was rejected. If the Local Board desired to adopt Alternative #2, it had that option and could have requested the State Board of Education to make an exception. Instead, the Local Board considered the reasons for the rejection, and also considered the reasons for changing the Cave Springs School to a K-5 school. The Local Board instead decided to forego the request for an exception and to approve the plan which called for changing the Cave Springs School to a K-5 school. The Hearing Officer concludes that the Local Board did not exceed its authority, did not illegally delegate its authority, and

did not violate state regulations by having two plans available for consideration by the Comprehensive Facilities Survey Team.

Appellants' arguments concerning the uniqueness of the relationship between the Cave Springs School and the School for the Deaf are policy arguments which do not establish any basis for reversing the decision of the Local Board. The Local Board was aware that the students from Cave Springs School participated in activities with the students from the School for the Deaf and that they learned to communicate with the deaf students. The existence of these policy arguments, however, does not show that the Local Board abused its discretion.

Appellants also claim the Local Superintendent erred by not informing the Local Board that an appeal could be made to the State Board of Education on a part of the plan approved by the Comprehensive Facilities Survey Team. At the time the Local Board was considering the Survey Team's report, the Local Superintendent informed the board that they had three options: (1) approve the report; (2) reject the report and start anew, or (3) appeal the recommendations to the State Board of Education. Appellants argue that a portion of Alternative #4 could have been appealed to the State Board of Education on the basis of leaving Cave Springs School as a K-12 school. This would have had the effect of presenting Alternative #2 to the State Board for approval. The fact that the Local Superintendent omitted an option, however, does not establish that the decision of the Local Board was erroneous. First, there is no evidence that the Local Board relied on the Superintendent's review

of the courses of action to decide what it would do. Second, the course advocated by Appellants is substantially similar to the course of rejecting the Survey Team's report and appealing its denial of Alternative #2, which is contained within the third option outlined by the Local Superintendent. The Hearing Officer concludes that the Local Superintendent did not misstate the options available to the Local Board, and even if he had, such misstatements cannot be attributed to the Local Board and thus establish a reason for reversing the Local Board's decision to accept the report of the Survey Team and not seek an appeal to the State Board of Education.

#### PART IV

#### RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion the Local Board did not abuse its discretion by deciding to accept the report made by the Comprehensive Facilities Survey Team and in deciding not to appeal to the State Board of Education. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.



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L. O. BUCKLAND  
Hearing Officer